

EXERCISE OF THE RIGHT TO PETITION REFLECTED IN IASI COUNTY COUNCIL'S ACTIVITY

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Abstract

This article aims to present the actual manifestation of the litigants' right to petition in equal positive or less manifestations, of the citizen as well as the difficulties of the administrative apparatus in fulfilling its role of moderator between the political factors and the general interest in whose service it is. The case study intends to present both situations of abuse of the right to petition and the scaffold the civil servant is being placed on, as he is unable to give an objective response, fact which shows the need to carry out civic education on the manner, the role and the functions of the right to petition.

Key words: right to petition, democratic, public authorities

LEGAL FRAMEWORK OF THE RIGHT TO PETITION

As a Member State of the European Union, Romania found that it needs normative benchmarks which enthusiasm of the beginnings cannot replace. It is known that Romania has faced, at least until its accession to EU, problems caused by the lack of a lengthy democratic tradition, and accumulation of experience in this field. The right to petition of an attempt to produce ongoing legal rules to reorganise public life ravaged by the collapse of dictatorship. But order does not reduce to existence of legal norms.

MATERIAL AND METHOD

Among the key legal regulations that have reshaped the regulatory space of institutional reform and contributed to a reassessment of the relationship between administration and citizen in consonance with the norms and practices applicable in Member States, we remind *Law 189/1999 on the exercise of legislative initiatives by citizens*, *Law 544/2001 on free access to information of public interest*, *Government's Ordinance 27/2002 on regulating petition settlement activities*, *Law 52/2003 on decisional transparency in public administration*, *Law 161/2003 on measures to ensure transparency in the exercise of public dignities, public functions and business environment*, *prevent and punish corruption*, *Law 215/2001 on public and local administration*, *Law 554/2004 on administrative*

law. To reduce licensing costs and limit bureaucracy in administration, the Government's Emergency Ordinance 27 / 2003 introduced the tacit approval procedure in the Romanian legislative system.

RESULTS AND DISCUSSIONS

Pursuant to Article 1 of the Government's Emergency Ordinance 27 / 2003, tacit approval procedure was regulated as an alternative method to issue or renew permits by the public authorities, which aims to offer them to all applicants who, to carry out their activity, require prior authorization, thus ensuring them the possibility to overcome the difficulties created by the excessive and constant bureaucracy that characterizes the administration of our country.

As stated in the explanatory memorandum to Law 486/2003 approving Government Emergency Ordinance 27 / 2003 on tacit approval procedure, improving the business environment in Romania is a prerequisite for achieving the status of functioning market economy and, at the same time, a need to boost economic development.

Undoubtedly, entrepreneurs' treatment is closely linked to their tendency to grow their businesses and invest in economy. Equally, it is well known that currently the Romanian business environment is affected by numerous administrative barriers, the removal of which should not be seen only from an investment point of view, but should be analysed in the broader sense as a way to better serve citizens who pay taxes for the services provided by the administration.

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In this respect, both in the explanatory memorandum that preceded the adoption of GEO 27 / 2003, and in the wording of Article 1 of the Emergency Ordinance, the purposes contemplated at the date of implementing the tacit approval procedure are expressly stipulated, namely: (a) elimination of administrative barriers in the business environment, (b) accountability of public administration in order to respect the deadlines set by law for issuing permits, (c) boosting economic development by providing more favourable conditions to entrepreneurs, involving low authorizing costs, (d) fighting corruption through reduction of arbitrary in administration decision, and (e) promoting quality of public services by simplifying administrative procedures.

By the way in which each of the objectives of GEO 27/2003 is worded, it appears that the essential purpose pursued by adopting this regulatory act is streamlining relations between administrative authorities and investors by lowering excessive bureaucracy, corruption and arbitrariness in the authorisation process of carrying out various economic activities.

GD 1723 / 2004 on measures to combat bureaucracy in public relations activity has the same coordinates. This regulation establishes measures on short, medium and long term for the adoption of programs by local and central government authorities aimed at eliminating red tape and administrative barriers. It also lays down the requirement that the services provided by public authorities in favour of citizens observe the procedure of implementing a quality management system and service quality certification process - ISO 9001.

Exercise of the right to petition reflected in Iasi County Council's activity

Following adoption of the Romanian Government's Ordinance 27 / 2002, at the level of Iasi County Council a specialized structure was established, called One-stop Shop and Secretariat Department of the Territorial Public Order Authority (ATOP), whose task is to settle petitions (receiving, recording, tracking petition settlement deadline, sending the reply to applicants, organization of audience schedule, reception and registration of applications, following settlement of applications within the statutory term, *release of copies of documents held in the archives of the institution* - Law 16 / 1996, republished, on National Archives and GO 33 / 2002, approved by Law 223 / 2002 on issuance of certificates and licenses, application of Law 544/2001 on free access to public information (reception and registration of applications, following settlement within the set deadlines, operation of the information point), application of Law 52 / 2003

on transparency of decisions (operation of the Info-touch - public disclosure of decisions and generally the institution's work), receipt and registration of zoning documents, tracking their handling within the statutory deadline, release of permits, certificates, authorizations required, advising citizens on matters falling within the competence of the county council, ensuring secretariat of Iasi Territorial Public Order Authority, in accordance with Law 218 / 2002 on organization and functioning of the Romanian Police and GD 787 / 2002 on approval of the Organisation and Operation Regulation of the Territorial Public Order Authority.

Hereinafter, we will show how implementation of the Quality Management System at Iasi County Council in accordance with ISO 9001/2001 imposed compliance procedures meant to ensure a fair treatment, brief settlement periods and compliance with the legal provisions for all petitions concerning the institution. The general principles underlying this procedure reflect values such as professionalism, integrity, accountability and transparency that guide the work of the public administration by ensuring a correct approach and a prompt and positive response towards the citizens addressing Iasi County Council. In fulfilling these goals, the procedure ensures achievement of the following requirements:

- a) easy accessibility through the use of multiple channels instituting the proceedings;
- b) empowerment of the institution's officials at all levels of authority, in order to solve problems / complaints when possible, ever since an early stage, from the first request of a citizen;
- c) a correct, impartial and prompt analysis of all petitions;
- d) use of the online form

It is worth mentioning that petitions can be received in the following forms:

- a) by fax to the following fax number: 0232-210336;
- b) via e-mail, to the dedicated e-mail address ghiseu.unic@icc.ro;
- c) by post, at the institution's headquarters located in Iasi, Bdul Stefan cel Mare si Sfanta nr.69;
- d) by filling out the *Petition Form* submitted at the institution's headquarters located in Iasi, Bdul Stefan cel Mare si Sfanta nr. 69;
- e) on line, on the website of the institution.

Petitions submitted in writing, received by fax or mail, as well as those submitted at the headquarters of the institution are registered in the *Unique electronic petition book* by assigning a unique number to which all the data necessary to identify the applicant / petitioner and the problem exposed are added.

The Unique petition book is kept in electronic format and has the following

composition: current issue, petition number, petition date, petitioner name, correspondence address, phone and e-mail, file number, petition number, petition subject, petition, origin: applicant, number and date, remarks.

All incoming petitions (received) in any way by the institution are managed/monitored by the One-stop Shop Department within Iasi County Council. The One-stop Shop Department centralizes all incoming petitions to the institution, by keeping records and preparing the annual report, which is published on the website of Iasi County Council. Public officials involved in the process described above are also considering amicable settlement of petitions.

If a petition is aimed at laws, regulations in force of the competent authorities, rules etc. according to which the subordinated institutions

carry out their activity, petitioners will be guided in writing to address the competent authorities by law or the One-stop Shop Department forwards the petition directly to that public administration body, institution or legal person competent to solve the petition.

Data presented below reflect the department's work in 2015

1. Petition settlement activities and organization of audiences

A. Petitions

Between 1.01- 31.12.2015, 128 petitions were recorded, compared to 154 in 2014. An overview of their distribution per departments and management personnel who settled them looks like this:

Table 1

Distribution Of Petitions Per Departments

No.	Department	No. of petitions
1.	Institution management (president, vice-president, county secretary)	16
2.	Legal Department	11
3.	Technical and Investment Service	14
4.	Chief Architect Service	9
5.	Economic Service	6
6.	Human Resources and Payroll Service	6
7.	Control Office	31
8.	Projects and Sustainable Development Service	2
9.	Institutions subordinated to the county council: a) D.G.A.S.P.C. (Social and Child Protective Service) b) D.J.A.D.P. (Roads and Bridges County Administration Service)	11 14
10.	Jurisdiction of other institutions	9

A statistic per issues subject to these petitions looks like this:

Table 2

Issues subject to petitions

No.	Petition subjects	No. of petitions
1.	Requests for material assistance due to financial shortcomings in the applicant's family	11
2.	Grievances regarding the services provided by SC Apavital SA (public water supply company), especially those requiring separate metering by the owners' association.	16
3.	Town planning issues	12
4.	Grievances on granting of social assistance by local councils in the county	3
5.	Complaints regarding the state of county roads, requests for support for rehabilitation or modernization	15
6.	Issues relating to child protection, foster care, adoptions, disabled people	12
7.	Problems related to the county's cultural heritage, concessions, land exchanges, special laws (Law 10/2001)	1
8.	Complaints, referrals on organisation of contests within local councils in the county or institutions subordinated to the County Council	10
9.	Requests for sponsorship to support cultural and artistic activities and sports	1
10.	Grievances related to passenger transport between counties and school buses	9
11.	Petitions for the settlement of which other institutions are competent	9
12.	Other issues	29

It is worth mentioning that, following the measures taken by the new management of Iasi County Council in relation to the manner of application of the regulation on document circuit,

the legal deadlines for responding to petitions were always met.

B. Hearings

In 2015, **15 applications** for an audience were recorded, compared to **39** in 2014.

The issue of these applications can be classified as follows:

Table 3

Audiences		
No.	Application subject	No. of applications
1.	Requests for material assistance due to financial shortcomings in the applicant's family	3
2.	Issues relating to child protection and rights, foster care, adoptions, disabled people	4
3	Request for support aimed at rehabilitation and modernization of county roads	2
5	County heritage issues, concession, medical practices	1
6	Requests for sponsorship to support cultural and artistic activities and sports	1
7	Grievances related to services provided by SC Apavital SA	1
8	Town planning issues	1
10	Other issues	2

An improvement of this activity is noted by introducing a strict audience schedule for directors of the institution, as well as by introducing an audience sheet.

2. Archive

Between 1.01 and 31.12.2015, **84 archive applications** were recorded, compared to **97 in 2014**, classified as follows:

Table 4

Archive application		
No.	Type of application	No. of application
1.	Decrees and other documents underlying expropriation	15
2.	Income statements based on archive records	10
3.	Other documents	69
4.	Requests to view documents from the archive by County Council employees	320

Purchase of a scanner and a DVD burner for the department allowed streamlining this activity by reducing the length of settling a request to 5 days and also, highly important, starting organisation of the electronic archive.

Also, in 2015, at the level of the One-stop Shop, Archive and Secretariat of the Territorial Public Order Authority, the amount of **Lei 1086.40**

was collected, representing the special local fee for copies of archive documents.

3. Town planning

In 2015, there were **1104 applications** for certificates, authorizations or permits, compared to 1002 in 2014.

Table 5

Zoning applications		
No.	Application name	No. of applications
1.	Zoning certificates	206
2.	Zoning Commission approvals	405
3.	Building permits	82
4.	Approvals for building permits and unique arrangements	203
5.	Renewal of zoning certificates	6
6.	Renewal of building permits	5
7.	General Urban Plan	10
8.	Detailed Urban Plan	-
9.	Zonal Urban Plan	180
10.	Commencement of works	-
11.	Demolition permits	-
12.	Notices of opportunity	7

4. Free access to public information

A separate activity is the implementation of Law 544 / 2001 on free access to public information at the level of Iasi County Council.

In 2015, there was a total of **80 applications**. It should be noted that all applications were settled and the answer was submitted within the deadlines set by law.

Of the **80 applications**, **29** were submitted by *e-mail*. 5 applications were submitted by *individuals* and **66** applications were submitted by *legal entities*.

A detailed situation of this activity is presented on the institution's website in the **2014 Report on the implementation of Law 544/2001 at the level of Iasi County Council**.

CONCLUSIONS

Misperception by petitioners of settlement of the problems they face

1. General considerations

Politicians, locally elected or parliamentary, often state their preoccupation in solving all the problems faced by voters. Thus, the idea that there is no problem without solution, regardless of whom you address, is accredited. Also, a false image of institutions comprising such persons with the status of locally elected officials or MPs is created. It is true that this false image is determined by many factors according to which we perceive reality, such as education, culture of the place we lived in, directions of thought inoculated by family, neighbours, group or groups to which we belong, entourage, the way we perceive ourselves, principles governing our life etc.

These influences have formed our thinking and perception of the world, of reality and of oneself. Thus "we were taught" how to see things, that reality is one way or another. Moreover, given that in the life of every person there is a unique combination of social and cultural influences and contacts, everyone gets to see things differently. Each person perceives a reality of their own, which is or becomes real to them, not necessarily for others. Thus, a person sees what you see, but understands something else because they analyse in the light of their knowledge and life experience. And for their life, they are right in their way. Moreover, there is another important factor that has a major influence on our beliefs: tendency to confirm what we already believe. This tendency means that we are inclined to look for, interpret, favour and recall information in a manner that confirms an idea that we are already convinced of.

Meanwhile, we pay disproportionately less attention to other aspects or variations of reality, which only drives us away from objective reality. In other words, we tend to be open almost exclusively to information that confirms what we believe.

2. Misconception of claimants on the competence of local public authorities to solve all the problems they face

In the spirit of the above, without providing personal details of claimants, in the following we will depict some of the "complaints" and "referrals" submitted at Iasi County Council by citizens, who require their settlement. Not only do these petitions have nothing in common with the attributions and competences of Iasi County Council, but they cross the borders of ridiculous.

Thus, one of the petitioners apply for financial support in order to build a spacecraft by a committee of specialists. The spacecraft is meant to ensure their teleporting into another galaxy.

Another petitioner notifies the existence of a criminal group affecting the life of personalities worldwide, a group that also influences climate. The petitioner concerned reports that, from 1968 onwards, also sports competitions have been affected, meaning that final results of athletes and competitions are affected. The petitioner requires publication of these dangers, given that these forces act at the level of state authorities, stating that he would like Interpol and FBI to learn about all these. From the wording of the complaint, it results that it was also filed with Iasi Court of Appeal and the Prosecutor's Office; we do not know the response of the said institutions to this complaint.

Another application required support to recover a lost horse in Oteleni village, Iasi county. The citizen concerned made this request by phone at the County Council at around 9.00 in the morning, then at the end of the day, he requested - still by telephone - to cease the search operation, as the animal was found by locals.

Another application aimed at supporting the petitioner to attend a cookery course, which would have allowed him to be hired as cook at a unit of the County Council.

Another petitioner asked the mayor of a locality in Iasi County to appoint a public official to clean his household, paint the fence and, in the alternative, to consider dismissal of another public official within the Town Hall who would have caused him damage in the past.

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